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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,199	01/25/2006	Michiel Errit Roersma	NL 030916	3668

24737 7590 12/31/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
HUNTER, RONALD A	

ART UNIT	PAPER NUMBER
4185	

MAIL DATE	DELIVERY MODE
12/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,199	ROERSMA ET AL.	
	Examiner	Art Unit	
	RONALD HUNTER	4185	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *1/25/2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/25/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to application no. 10566199 filed on 1/25/2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims1, 2, & 6-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Altshuler (US 6,508,813 B1)** in view of **Gowda (US 6,755,849 B1)**.

Regarding claim 1, Altshuler's invention discloses an emission window *(column 6, lines 1-3 & 7)*, and electromagnetic radiation source *(column 7, lines 9 &10)*, a recess which is open on one side *(column 5, lines 42-46)*, a vacuum *(column 13, lines 20-21)*, a means is also provided for creating negative pressure in the chamber *(column 5, lines 46-47)*, but fails to teach a pressure gauge for measuring a pressure inside the recess.

However, Gowda teaches alternatively or additionally, the apparatus of the resent invention can also include one or more components for measuring pressure changes. For example, the apparatus can include a pressure transducer and a pressure modulator *(column 12, lines 12-16)*.

4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Altshuler's invention with the pressure transducer or modulator of Gowda.

Doing so create an optimal atmospheric condition necessary for epidermal laser treatment.

Regarding claim 2, Atlshuler's invention discloses if at any time during the firing of the radiation source, there is an increase in temperature at sensor **46** which deviates from what would be anticipated from profile **90**, controls **20** can immediately turn off the source **12** to prevent any thermal damage to the patient's epidermis **22** (column 10, lines 40-46), but fails to teach control means connected the pressure gauge to prevent the source of electromagnetic radiation from emitting electromagnetic radiation when the pressure measured by the pressure gauge is higher than a predetermined threshold value.

However, Gowda teaches alternatively or additionally, the apparatus of the resent invention can also include one or more components for measuring pressure changes. For example, the apparatus can include a pressure transducer and a pressure modulator *(column 12, lines 12-16)*.

5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Altshuler's controls with the pressure transducer or modulator of Gowda.

Doing so create an optimal atmospheric condition necessary for epidermal laser treatment and reduce unwanted tissue damage.

Regarding claim 6, Altshuler's invention discloses and emission window present in the recess *(column 6, lines 1-3)*.

Regarding claim 7, Altshuler's invention discloses a recess surrounds the emission window *(column 5, lines 42-46)*.

Regarding claims 8, 9 & 10, Altshuler's invention discloses a flexible circumferential edge lies on a plane surface, on a concave or convex surface *(column 5, lines 54-58 & 60-62)*.

Regarding claim 11, Altshuler's invention discloses electromagnetic radiation comprises infrared radiation, visible optical radiation or ultraviolet radiation *(column 7, lines 24-26)*.

Regarding claims 12 & 13, Altshuler's invention discloses an electromagnetic radiation source and electromagnetic radiation guide *(column 7, lines 9 &10)*, and mirror *(column 18, lines 63-65)*.

Regarding claim 14, Altshuler's invention discloses sources of electromagnetic radiation *(column 7, lines 16 & 17)*.

6. **Claims 3 & 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Altshuler (US 6,508,813 B1)** in view of **Gowda (US 6,755,849 B1)** and further in view of **Kreindel (US 6,662,054 B2)**.

Regarding claims 3 & 4, Atlshuler's invention discloses if at any time during the firing of the radiation source, there is an increase in temperature at sensor **46** which deviates from what would be anticipated from profile **90**, controls **20** can immediately turn off the source **12** to prevent any thermal damage to the patient's epidermis **22**

(column 10, lines 40-46), but fails to teach control means connected the pressure gauge to prevent the source of electromagnetic radiation from emitting electromagnetic radiation when the pressure measured by the pressure gauge is higher than a predetermined threshold value.

However, Gowda teaches alternatively or additionally, the apparatus of the resent invention can also include one or more components for measuring pressure changes. For example, the apparatus can include a pressure transducer and a pressure modulator *(column 12, lines 12-16)*.

7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Altshuler's controls with the pressure transducer or modulator of Gowda.

Doing so would create an optimal atmospheric condition necessary for epidermal laser treatment and reduce unwanted tissue damage.

Atlshuler's invention as modified by Gowda fails to teach threshold value is from 10 to 250 mbar below ambient pressure.

However Kreindel teaches the negative pressure is from 0.2 to 1 atmosphere *(claim 7)*.

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Altshuler's invention with the negative pressure of Kreindel, *wherein ambient pressure = 1 atmosphere; 1 atmosphere = 1.0132 bar; 1 bar = 1000 mbar (millibar).*

Doing so would create an optimal atmospheric pressurized condition necessary for epidermal laser treatment.

9. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Altshuler (US 6,508,813 B1)** in view of **Gowda (US 6,755,849 B1)** and further in view of **Swinger (US 6,325,792 B1)**.

Regarding claim 5, Altshuler's invention as modified by Gowda fails to teach a shutter that is able to prevent emission of the electromagnetic radiation.

However, Swinger teaches if the beam diameter sensor **127** detects an out-of-range beam (either diameter or intensity profile), the computer control unit **114** can take appropriate action, including activation of the safety shutter **120** *(column 19, lines 25-29)*.

10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Altshuler's invention with the shutter of Swinger.

Doing so would prevent unwanted damage to peripheral epidermal tissue.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited for disclosing related limitations of the applicant's claimed and disclosed invention: **Berry et al. (US 2004/0064167 A1), Sinofsky (US 2003/0216720 A1), Prescott (US 2003/0114902 A1), Anderson et al. (US 2003/0045916 A1), and Roersma et al. (US 2006/0241573 A1)**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONALD HUNTER whose telephone number is (571)270-7133. The examiner can normally be reached on Monday - Friday, 9:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on (571) 272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RONALD HUNTER/
Examiner, Art Unit 4185

/Len Tran/
Supervisory Patent Examiner, Art Unit 3752